



Teaching
Regulation
Agency

Dr David Burns: Professional conduct panel outcome

**Panel decision and reasons on behalf of the
Secretary of State for Education**

June 2022

Contents

Introduction	3
Allegations	4
Preliminary applications	7
Summary of evidence	9
Documents	9
Witnesses	10
Decision and reasons	10
Findings of fact	10
Panel's recommendation to the Secretary of State	31
Decision and reasons on behalf of the Secretary of State	36

Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Dr David Burns

TRA reference: 0018221

Date of determination: 20-22 June 2022

Former employer: The Radclyffe School, Greater Manchester

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 20-22 June 2022, to consider the case of Dr David Burns.

The panel members were Ms Penny Griffith (lay panellist – in the chair), Dr Martin Coles (former teacher panellist) and Mrs Sharon Bhogal (teacher panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Ms Samantha Paxman of Browne Jacobson solicitors.

Dr Burns was present and was represented by Mr Andrew Faux of the Reflective Practice.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 20 April 2022 (as amended).

It was alleged that Dr Burns was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst a teacher at The Radclyffe School:

1. On an unknown date between February 2018 and September 2018, he told Staff Member 1 that he would end his personal relationship with [REDACTED] if [REDACTED] attended meetings with Staff Member 2, [REDACTED] liaison line manager;
2. He told and/or instructed Staff Member 1 that [REDACTED] could not attend
 - a. an overseas School trip, in or around July 2018
 - b. a Leadership Conference, in January 2019;
3. He accessed Staff Member 1's email account
 - a. having obtained computer log in details and email password, in or around April 2018;
 - b. to send an email from [REDACTED] account, on 6 September 2018;
4. On 13 September 2018, he spoke to Staff Member 1, in relation to [REDACTED] meetings with Staff Member 2 using words to the effect "You don't go to see [REDACTED]";
5. He wrote the following to Staff Member 1, in relation to [REDACTED] meetings with Staff Member 2
 - a. "Did you cancel [Staff Member 2] by the way?" on 14 November 2018
 - b. "I'll destroy you...All because you couldn't keep a door open with [Staff Member 2]" in December 2018
 - c. "If you don't tell me every time [REDACTED] [Staff Member 2] contacts you – I'll pop round" in December 2018
 - d. "You don't meet [Staff Member 2] anywhere. Ever!", on 1 January 2019
 - e. "I hope you have your plan sorted for your [Staff Member 2] meeting first week back and the conference", on 3 January 2019;

- f. "If you do anything with [Staff Member 2] I'll destroy you and I won't even blink thinking about it. Nothing will change that", on 5 January 2019,
 - g. "Don't meet [Staff Member 2] ever again", on 7 January 2019,
 - h. "That you have met [REDACTED] [Staff Member 2] three times with the door shut shows me that you don't give a shit. Meeting in your PPA isn't an option anymore because your trainee isn't there", on 8 January 2019;
6. He repeatedly told Staff Member 1 to find a new job, including using words to the effect of "Get a new job and leave at Easter" on 7 January 2019;
7. He addressed Staff Member 1 in an abusive manner, namely
- a. "Fucking, Fucked up bastard" in a telephone call on or about 6 September 2018
 - b. on 13 September 2018, using words to the effect
 - i. "Slag"
 - ii. "Slut"
 - iii. "Slapper"
 - iv. "dirty"
 - c. on an unknown date, following [REDACTED] receipt of a new laptop charger on or around the 23 November 2018, using words to the effect "did you show [REDACTED] your tits or drop your draws ... Manipulating an [REDACTED] So sad"
 - d. "dirty, dirty, dirty", in a telephone call on 15 January 2019;
8. He sent abusive written messages to Staff Member 1, using words to the effect of
- a. "dirty attention seeking tart" in July 2018
 - b. "hope you find someone with for your lifeless bucket" on 23 September 2018
 - c. "Blocked your email because you are going for dirty time with [Staff Member 2]!!!! I fucking hate you!! I fucking loathe your superficial existence!! The fact that you dump me so quickly show what a shallow superficial person you were. So who have you got lined up next?" on 23 September 2018
 - d. on 25 December 2018
 - i. "You fucking lying dirty shit"
 - ii. "You are a selfish slag"

- iii. "Fuck you, you dirty shit... Lying dirty shit"
 - iv. "Fucking dirty whore ... so self-absorbed"
 - v. "Because mummy is a slag"
 - vi. "You are such a dirty slag"
 - vii. "Fucking dirty shit"
 - viii. "Acknowledge that you are a dirty and immoral shit"
 - e. "You shouldn't be such a fucking dirty hypocrite" on or about 25 December 2018
 - f. "You are a disgraceful hypocrite ... Disgustingly so" on or about 25 December 2018
 - g. "Stop being a hypocrite" on or about 25 December 2018
 - h. "You two face fucking scumbag hypocrite" on or about 25 December 2018
 - i. "I'd love to see the f you could get wetter" in or around January 2019;
9. He made derogatory comments to Staff Member 1 about Staff Member 3, using words to the effect
- a. "What have you told your pointless faggy mate about us ... How dare [REDACTED], does he know who I am?" in November 2018
 - b. "because fag and [Staff Member 4] said to go on a dating site" on 25 December 2018
 - c. "Do you forget going out with fag every Friday night and leaving your [REDACTED]" on 1 January 2019
 - d. "stupid superficial faggy mate" on an unknown date
 - e. "your pointless faggy mate really pissed me off" on an unknown date
 - f. "Didn't even know you were there. You had a fag permanently attached" on an unknown date;
10. He threatened Staff Member 1
- a. in March 2018, with the words "If you ever do that or anything like that to me I will hurt you"
 - b. with disclosure of a sexually explicit image to pupils at the School, on 26 November 2018

- c. with words to the effect “I’ll destroy you” on
 - i. 25 December 2018
 - ii. 3 January 2019
 - iii. 5 January 2019
- d. with disclosure of images to Staff Member 1’s [REDACTED], stating “I could make another gif of your come faces. You could show [REDACTED] and compare” on an unknown date;

11. He behaved violently, namely

- a. in March 2018, he grabbed Staff Member 1’s hair tightly at the nape of [REDACTED] neck
- b. on 13 September 2018, he kicked or hit items in his office in the presence of Staff Member 1
- c. on or around 8 January 2019, he punched or kicked items in [REDACTED] room in the presence of Staff Member 1;

12. His conduct in the foregoing paragraphs, as may be found proven, amounted to inappropriate conduct towards one or more colleagues.

Dr Burns admitted the facts of allegations 1, 2 (as amended), 3, 4, 5, 6, 7, 8, 9(a) to (c), 9(e) to (f), 10(a), 10(c), 10(d) and 12 in part.

In relation to allegations 11(b) and 11(c), certain admissions were made on a specific basis. The allegations were nonetheless denied in formal terms.

Allegations 9(d), 10(b) and 11(a) were denied in their entirety.

In relation to those allegations that were admitted, Dr Burns also admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

Application in relation to Staff Member 1

An application was previously made for a witness, referred to as Staff Member 1 for the purposes of the allegations, to be deemed a vulnerable witness ("the Application"). The Application was made in January 2020. The directions sought were as follows:

That the evidence of Staff Member 1 shall be given orally before the panel:

- (a) behind a screen (such that [REDACTED] will not see, or be visible to, Dr Burns, the advocates, representatives or the public), with such adaptations to the hearing room as are necessary to achieve this direction; or*
- (b) if it is not possible to achieve the measure set out in paragraph (a) fully, by means of video-link.*

These directions were subsequently varied and agreed between the parties whereby a new application was made for a direction in the following terms:

The hearing room to be arranged in such a way that Staff Member 1 will not be able see David Burns (and vice versa) when Staff Member 1 is giving evidence.

On that basis, the matter did not require a determination by a panel at a case management hearing. Rather, the panel was informed that a decision was made by the TRA that these proposals will assist in the just and efficient management of the case in accordance with paragraph 4.39 of the applicable version of the 'Teacher misconduct: disciplinary procedures for the teaching profession'.

However, regrettably that decision was not before the panel. The panel or legal advisor had not been informed of the application in advance of the hearing. It was also the case that at the time the Application was made, an in-person hearing was anticipated. Plainly, that was no longer the case.

The panel was therefore invited to maintain Staff Member 1's designation as a vulnerable witness and direct the following special measures, namely that:

- Dr Burns not appear on screen when Staff Member 1 gives evidence; and
- Staff Member 1 be anonymised in these proceedings.

As a starting point, the panel agreed that Staff Member 1 should be considered as vulnerable. That was not in dispute and it was identified pursuant to the Application that [REDACTED] was distressed by the prospect of giving evidence. Given this and the nature of the subject-matter in these proceedings, which did touch upon sexual matters, the panel agreed that the quality of [REDACTED] evidence was likely to be adversely affected.

The panel went on to consider what, if any, special measures were appropriate and necessary to protect the interests of Staff Member 1.

The panel agreed that both of the measures sought were necessary and appropriate, having undertaken a balancing exercise of the interests of Staff Member 1, Dr Burns and the wider public interest in a public hearing and the interests of justice.

In relation to Dr Burns not appearing on screen, whilst the panel recognised this was not an ideal scenario, there was no practical alternative that the panel considered would meet its concerns. The panel also had in mind that Dr Burns was represented.

In relation to anonymity, the panel was satisfied that, given the highly private and sensitive nature of [REDACTED] evidence, anonymity was necessary to protect the interests of Staff Member 1. The panel had in mind that Staff Member 1 was only involved in these proceedings due to [REDACTED] position as the alleged victim of inappropriate behaviour. [REDACTED] was also, allegedly, the victim of certain acts with sexual implications.

Application to amend allegation 2

An application was made by the TRA, at the conclusion of the oral evidence, to amend allegation 2 to read 'told and/or instructed' as opposed to just 'instructed' as originally pleaded.

Both parties submitted this was necessary and appropriate pursuant to the interests of justice. Not least, it was agreed it would be inappropriate for allegations to fail for technical reasons. It was suggested that such a scenario was possible in this instance were the panel to conclude that no formal instruction was provided in circumstances where there was no dispute that requests of this nature were made.

It followed from Dr Burns' agreement that there was no suggestion he would be prejudiced were the amendment allowed.

On the basis of the parties' agreed position, the panel acceded to the application. Whilst the panel was yet to commence deliberations, there was clearly a difference of opinion in relation to whether what was said amounted to an instruction. The panel had yet to determine whether this was a dispute of substance or a matter of semantics. If it decided upon the former, there was a theoretical possibility that the allegation could fall on a technical basis when there was little in dispute in relation to this allegation. The amendment was therefore necessary in the interests of justice.

Summary of evidence

Documents

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Chronology, identification key and list of roles – pages 8 to 10

Section 2: Notice of hearing and response – pages 12 to 38

Section 3: Teaching Regulation Agency witness statements – pages 40 to 42

Section 4: Teaching Regulation Agency documents – pages 44 to 178

Section 5: Teacher witness statements – pages 180 to 207

Section 6: Teacher documents – pages 280 to 336

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing.

Witnesses

The panel heard oral evidence from Staff Member 1. [REDACTED]

In addition to giving evidence himself, Dr Burns called [REDACTED] to give evidence on his behalf.

Decision and reasons

The panel announced its decision and reasons as follows:

Introduction

Dr Burns was previously employed as a teacher by The Radycliffe School ("the School"). He commenced work at the School on 1 September 2016 as an assistant headteacher, later becoming deputy headteacher.

In November 2016, Dr Burns began a relationship with a staff member at the School, referred to as Staff Member 1. This was a consensual, sexual relationship that lasted until approximately September 2018. From this point onwards, Dr Burns and Staff Member 1 continued to have almost daily communication, particularly via messaging.

Between September 2014 to June 2015 and between September 2017 to January 2018, Dr Burns was Staff Member 1's line manager. The existence of the relationship was not known to the School.

It is alleged that between March 2018 and January 2019, Dr Burns acted inappropriately in relation to Staff Member 1 in various respects, including comments made to [REDACTED], in relation to the nature and content of messages he sent and his alleged behaviour in [REDACTED] presence.

On 15 January 2019, another member of staff at the School made a disclosure in relation to Dr Burns' alleged behaviour.

On 17 January 2019, the School decided to commence an investigation and Dr Burns was told not to be present on the School's premises.

On 29 January 2019 and 4 February 2019, the School conducted disciplinary interviews with Dr Burns.

Ultimately, on 14 February 2019, the School reached a settlement agreement with Dr Burns leading to his employment at the School ceasing with effect from 28 February 2019.

Dr Burns was subsequently referred to the TRA.

Evidence considered by the panel

The panel carefully considered all of the written and oral evidence presented. It accepted the legal advice provided.

The panel heard oral evidence from Staff Member 1 who was called by the presenting officer.

Dr Burns attended the hearing and was represented.

A Statement of Agreed and Disputed Facts ("the Agreed Statement") was submitted in which Dr Burns admitted the facts of allegations 1, 3, 4, 5, 7, 8, 9(a) to (c), 9(e) to (f), 10(a), 10(c), 10(d) and 12 (in part). During the course of evidence, Dr Burns also admitted allegation 2, as amended, and allegation 6.

In relation to allegations 11(b) and 11(c), Dr Burns made certain admissions on a specific basis. These allegations were nonetheless denied in formal terms.

Allegations 9(d), 10(b) and 11(a) were denied in their entirety.

In relation to the admitted allegations, Dr Burns accepted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute, when considered in totality.

Insofar as there were references to opinions expressed during the course of the earlier investigation, the panel formed its own, independent view of the allegations based on the evidence presented to it.

Findings of fact

The findings of fact are as follows:

- 1. On an unknown date between February 2018 and September 2018, you told Staff Member 1 that you would end your personal relationship with [REDACTED] if [REDACTED] attended meetings with Staff Member 2, [REDACTED] liaison line manager**

Dr Burns admitted the facts of allegation 1.

The Agreed Statement records that:

- Staff Member 2 was Staff Member 1's liaison line manager from February 2018.
- This meant they engaged in regular reviews which, from September 2018, would occur on a weekly basis.
- Dr Burns admitted that he told Staff Member 1 he would end their relationship if [REDACTED] attended meetings with Staff Member 2.

Dr Burns' admission was consistent with the other evidence before the panel. In [REDACTED] evidence, Staff Member 1 described how [REDACTED] interactions with Staff Member 2, whilst only ever of a professional nature, were an ongoing issue for Dr Burns. In his statement to the panel, Dr Burns accepted that he had "*insecurities*" with reference to Staff Member 2.

The panel therefore found allegation 1 proved.

- 2. You told and/or instructed Staff Member 1 that [REDACTED] could not attend**
 - a. an overseas School trip, in or around July 2018**
 - b. a Leadership Conference, in January 2019**

Dr Burns accepted that he told Staff Member 1 not to attend an overseas school trip in or around July 2018 and a leadership conference in January 2019.

However, he denied that his actions amounted to an instruction for the purposes of this allegation.

Allegation 2(a) involved Staff Member 3, who was a colleague and friend of Staff Member 1.

It was confirmed that Staff Member 1 and Staff Member 3 had a friendship outside of school and Staff Member 3 had visited Staff Member 1's house on at least one occasion.

Dr Burns admitted that he asked Staff Member 1 not to go on this particular overseas School trip, to France, in July 2018. The Agreed Statement records that this was due to Dr Burns being jealous of [REDACTED] spending time with Staff Member 3.

However, although Dr Burns accepted he made this request and it was unacceptable, he denied it amounted to an instruction.

Allegation 2(a) was admitted on that specific basis.

In relation to allegation 2(b), Dr Burns similarly admitted that he told Staff Member 1 not to attend a leadership conference in January 2019.

Once again, the Agreed Statement records this was due to Dr Burns being jealous of Staff Member 1 spending time with Staff Member 2. As with allegation 2(a), Dr Burns accepted this was unacceptable whilst denying that his request amounted to an instruction.

Dr Burns therefore admitted allegation 2(b) on the sole basis that he told Staff Member 1 not to attend this conference.

The panel recognised that in making these comments, Dr Burns was not acting in a professional capacity. The requests, as Dr Burns termed them, were not akin to management instructions. They arose solely in the context of his personal relationship with Staff Member 1 and not because he was senior to [REDACTED] in his role at the School.

Nonetheless, the panel concluded that in making these comments, Dr Burns was intending them to be received by Staff Member 1 as explicit directions or commands. On that basis, the panel considered they were, in nature, tantamount to an instruction in the normal sense of that word.

Dr Burns came close to accepting this in oral evidence. Given the wider context, Dr Burns accepted he could appreciate why they could be perceived as demands and they were unacceptable.

In the context of their personal relationship, the panel was satisfied that he was seeking to instruct Staff Member 1 in how [REDACTED] should behave in relation to these events.

The panel was also satisfied that these comments were received by Staff Member 1 as instructions or demands and [REDACTED] had used both those terms in describing this aspect of the case. For example, in oral evidence, Staff Member 1 said [REDACTED] felt it was "*pretty much impossible*" to disagree with them or to say 'no' to Dr Burns and there was evidence of what happened on occasions when Dr Burns felt [REDACTED] had not adhered to his expectations.

The panel therefore found allegations 2(a) and 2(b) proved on the basis that Dr Burns told and, in essence, instructed Staff Member 1 in each of the respects set out.

3. You accessed Staff Member 1's email account

- a. having obtained computer log in details and email password, in or around April 2018**
- b. to send an email from [REDACTED] account, on 6 September 2018**

Dr Burns admitted the facts of allegations 3(a) and (3b).

Dr Burns accepted that he accessed Staff Member 1's school email account, on his version of events having obtained [REDACTED] login details and password in or around April 2018.

Dr Burns' position was that Staff Member 1 voluntarily provided him with [REDACTED] login details, whilst acknowledging that he should not have accepted such an offer.

This was disputed by Staff Member 1.

In [REDACTED] evidence, Staff Member 1 said that Dr Burns specifically asked [REDACTED] to access [REDACTED] emails, which was in the context of his issues with Staff Member 2. Staff Member 1 said [REDACTED] could recall the manner in which Dr Burns raised this, suggesting it was phrased in terms that if [REDACTED] loved him, [REDACTED] would allow him to access [REDACTED] email account in this way.

The wording of allegation 3 did not expressly require this particular conflict of evidence to be resolved. Nonetheless, the panel did consider it was appropriate to do so in the context of this case as a whole.

In that regard, the panel preferred the evidence from Staff Member 1 to that of Dr Burns.

In the context of Dr Burns' acknowledged insecurities and jealousy about Staff Member 2, which was very clearly evidenced in particular from the messages he sent throughout the period in question, it was more likely than not that Dr Burns specifically sought this access.

The panel considered that Dr Burns' conduct as a whole was indicative of an ongoing attempt to control elements of Staff Member 1's behaviour and the panel was satisfied that his monitoring of [REDACTED] emails was one aspect of this.

On balance, the panel considered that in relation to this allegation, Dr Burns was seeking to downplay his actions in his oral evidence. Having regard to the extent to which his issues about Staff Member 2 were so readily documented and motivated Dr Burns' behaviour, the panel was not persuaded by his version of events.

For example, the panel took note of the evidence about how Dr Burns reacted when Staff Member 1 subsequently changed [REDACTED] password, thereby removing his access. He responded very shortly afterwards in an expletive-filled and vitriolic email, dated 23 September 2018, to Staff Member 1's personal email account in which he immediately drew a direct connection to Staff Member 2.

The panel considered this was suggestive of Dr Burns being extremely eager to monitor Staff Member 1's communications, which rendered it more likely that it was his idea from

the outset. This was also supported by Staff Member 1's evidence that Dr Burns would instruct [REDACTED] on how to respond to any contact from Staff Member 2.

Dr Burns also suggested that he did not monitor Staff Member 1's email account very frequently. That, again, was undermined by the fact that he sent an email from it on 6 September 2018 and was clearly monitoring the position with sufficient attention to know that the password was changed by 23 September 2018, when he sent the email referred to above.

Dr Burns' evidence was further undermined by his response, in oral evidence, to a question from the panel. When asked why he used the term 'ridiculous' in the context of describing his actions, Dr Burns' immediate response was to say it was ridiculous to want access, before immediately repeating his previous explanation that it was ridiculous to accept the offer he claims Staff Member 1 made. The panel concluded that his initial answer was more likely to be the true position.

With reference to allegation 3(b), Dr Burns admitted that, after he had access to Staff Member 1's email account, he sent an email from it, to another colleague, on 6 September 2018. Allegation 3(b) was admitted on that basis and a copy of the email was included in evidence, which was said to have been sent inadvertently.

The panel accordingly found allegations 3(a) and 3(b) proved on the basis set out above.

4. On 13 September 2018, you spoke to Staff Member 1, in relation to [REDACTED] meetings with Staff Member 2 using words to the effect “You don’t go to see [REDACTED] ”

Dr Burns admitted the facts of allegation 4.

Pursuant to the Agreed Statement, Dr Burns admitted that, during a discussion with Staff Member 1 on 13 September 2018, with reference to the first line management review of that academic year, scheduled with Staff member 2, he stated to Staff Member 1, “*you don’t go to see [REDACTED]* ”.

Once again, this admission was consistent with the other evidence before the panel. Staff Member 1 vividly addressed the fact that the meetings [REDACTED] was required to have with Staff Member 1, including on this occasion, were a continuing source of conflict. This issue was also addressed more generally in the messages exchanged between Dr Burns and Staff Member 1, including those particularised in allegation 5.

The panel therefore found allegation 4 proved.

5. You wrote the following to Staff Member 1, in relation to [REDACTED] meetings with Staff Member 2

a. “Did you cancel [Staff Member 2] by the way?” on 14 November 2018

- b. **“I’ll destroy you...All because you couldn’t keep a door open with [Staff Member 2]” in December 2018**
- c. **“If you don’t tell me every time he [Staff Member 2] contacts you – I’ll pop round” in December 2018**
- d. **“You don’t meet [Staff Member 2] anywhere. Ever!”, on 1 January 2019**
- e. **“I hope you have your plan sorted for your [Staff Member 2] meeting first week back and the conference”, on 3 January 2019**
- f. **“If you do anything with [Staff Member 2] I’ll destroy you and I won’t even blink thinking about it. Nothing will change that”, on 5 January 2019**
- g. **“Don’t meet [Staff Member 2] ever again”, on 7 January 2019**
- h. **“That you have met [REDACTED] [Staff Member 2] three times with the door shut shows me that you don’t give a shit. Meeting in your PPA isn’t an option anymore because your trainee isn’t there”, on 8 January 2019**

Dr Burns admitted the facts of allegations 5(a) to 5(h).

Dr Burns accepted that he said each of the comments particularised in allegations 5(a)-(h) and that he did so with reference to Staff Member 1's meetings with Staff Member 2. The Agreed Statement records that Dr Burns claimed to be appalled at the language he used and acknowledged the requests he made were inappropriate.

Copies of the messages themselves were included in evidence and considered by the panel.

In light of this evidence and Dr Burns' clear admissions, the panel found allegations 5(a) to 5(h) proved.

6. You repeatedly told Staff Member 1 to find a new job, including using words to the effect of “Get a new job and leave at Easter” on 7 January 2019

Allegation 6 was initially denied by Dr Burns.

Dr Burns initially admitted only that he sent a single message in which words to this effect were used. He therefore denied this allegation on the basis that he did not accept he repeatedly told Staff Member 1 to find a new job.

However, in oral evidence and, subsequently, in formal terms, Dr Burns admitted this allegation.

A specific message sent by Dr Burns on 7 January 2019, which was included within the hearing papers, stated to Staff Member 1:

"Get a new job and leave at Easter".

Over and above this, Dr Burns now accepted that this was a regular topic of conversation and there was at least one occasion when he raised the possibility of him leaving the School. However, in large part, Dr Burns accepted that it was predominantly him indicating to Staff Member 1 that [REDACTED] should get a new job, which was in the context of ongoing discussions about if and when he would leave his [REDACTED].

Based on his evidence and the subsequent confirmation that this allegation was now admitted, the panel concluded that Dr Burns repeatedly told Staff Member 1 to find a new job, including using the words *"get a new job and leave at Easter"* in his message on 7 January 2019.

It therefore found allegation 6 proved.

7. You addressed Staff Member 1 in an abusive manner, namely

- a. "Fucking, Fucked up bastard" in a telephone call on or about 6 September 2018**
- b. on 13 September 2018, using words to the effect**
 - i. "Slag"**
 - ii. "Slut"**
 - iii. "Slapper"**
 - iv. "dirty"**
- c. on an unknown date, following [REDACTED] receipt of a new laptop charger on or around the 23 November 2018, using words to the effect "did you show him your tits or drop your draws ... Manipulating an [REDACTED], So sad"**
- d. "dirty, dirty, dirty", in a telephone call on 15 January 2019;**

Dr Burns admitted the facts of allegations 7(a) to 7(d) whereby he fully accepted using the language particularised to Staff Member 1 and that this was abusive. He thereby did not challenge Staff Member 1's account of these occasions.

The panel therefore found each of allegations 7(a) to 7(d) proved whereby Dr Burns did address Staff Member 1 in each of the respects set out and found that, given the nature of what was said, this behaviour was abusive.

8. You sent abusive written messages to Staff Member 1, using words to the effect of
- a. “dirty attention seeking tart” in July 2018
 - b. “hope you find someone with for your lifeless bucket” on 23 September 2018
 - c. “Blocked your email because you are going for dirty time with [Staff Member 2]????!! I fucking hate you!! I fucking loathe your superficial existence!! The fact that you dump me so quickly show what a shallow superficial person you were. So who have you got lined up next?” on 23 September 2018
 - d. on 25 December 2018
 - i. “You fucking lying dirty shit”
 - ii. “You are a selfish slag”
 - iii. “Fuck you, you dirty shit... Lying dirty shit”
 - iv. “Fucking dirty whore ... so self-absorbed”
 - v. “Because mummy is a slag”
 - vi. “You are such a dirty slag”
 - vii. “Fucking dirty shit”
 - viii. “Acknowledge that you are a dirty and immoral shit”
 - e. “You shouldn’t be such a fucking dirty hypocrite” on or about 25 December 2018
 - f. “You are a disgraceful hypocrite ... Disgustingly so” on or about 25 December 2018
 - g. “Stop being a hypocrite” on or about 25 December 2018
 - h. “You two face fucking scumbag hypocrite” on or about 25 December 2018
 - i. “I’d love to see the f you could get wetter” in or around January 2019;

Dr Burns admitted the facts of allegations 8(a) to 8(i).

Dr Burns admitted that he sent these messages to Staff Member 1, copies of which were included in evidence, and that they were abusive in nature.

Having carefully considered the messages and having regard to the context of his relationship with Staff Member 1, the panel agreed.

The panel therefore found allegations 8(a) to 8(i) proved.

- 9. You made derogatory comments to Staff Member 1 about Staff Member 3, using words to the effect**
- a. “What have you told your pointless faggy mate about us ... How dare [REDACTED], does [REDACTED] know who I am?” in November 2018**
 - b. “because fag and [Staff Member 4] said to go on a dating site” on 25 December 2018**
 - c. “Do you forget going out with fag every Friday night and leaving your [REDACTED]” on 1 January 2019**
 - d. “stupid superficial faggy mate” on an unknown date**
 - e. “your pointless faggy mate really pissed me off” on an unknown date**
 - f. ”Didn’t even know you were there. You had a fag permanently attached” on an unknown date;**

Dr Burns admitted the facts of allegations 9(a) to 9(c) and 9(e) to 9(f).

In relation to these allegations, Dr Burns admitted that he made the comments in question and they were included in messages he sent to Staff Member 1 that were before the panel.

The panel concluded they were, on any reasonable assessment, derogatory in nature, which Dr Burns fully accepted.

On the basis of Dr Burns' admissions and having considered the messages themselves, the panel therefore found allegations 9(a) to (c), (e) and (f) proved.

However, Dr Burns denied allegation 9(d). He did not recall making such a comment and asserted in oral evidence that he unsuccessfully searched for such a message on his phone, albeit this was not referenced in his witness statement.

Staff Member 1's evidence was that a comment of this nature was made via a message and [REDACTED] sent this to Staff Member 3 at the time.

This was corroborated by the hearsay account of Staff Member 3, which was set out in an email dated 16 January 2019. It records:

"On one occasion, [Dr Burns] referred to me as [REDACTED] 'stupid superficial faggy mate', which [Staff Member 1] sent me a screenshot of ... I told my [REDACTED] , and [REDACTED] was equally furious, and was ready to call school, and has regularly suggested going to the police...."

In light of this evidence, together with the fact that the alleged comment was very similar in nature to other comments evidenced in the papers and accepted by Dr Burns, the panel concluded it was more likely than not that Dr Burns did make it.

The panel therefore found allegation 9(d) proved.

10. You threatened Staff Member 1

a. in March 2018, with the words "If you ever do that or anything like that to me I will hurt you"

Whilst allegation 10(a) was initially denied, at the outset of this hearing it was retracted and the allegation formally admitted by Dr Burns.

In oral evidence, Dr Burns was somewhat equivocal in relation to this allegation, whilst maintaining that, if these words were said, he would have been referring to 'emotional' hurt.

Staff Member 1's evidence was that this comment was made in the context of the incident subject to allegation 11(a), whereby following the physical contact alleged Dr Burns threatened, *"if you ever do anything like that to me I will hurt you"*.

[REDACTED] evidence on this issue was unchallenged. In those circumstances and given Dr Burns' formal admission, even if that could not be entirely aligned with his evidence, the panel concluded it was more likely than not that such a comment was made.

Whether or not Dr Burns may have been alluding to emotional harm, there was no suggestion that was made explicitly clear to Staff Member 1 and the words were clearly threatening in nature.

The panel therefore found allegation 10(a) proved.

b. with disclosure of a sexually explicit image to pupils at the School, on 26 November 2018

Dr Burns denied the facts of allegation 10(b).

There was no dispute that Dr Burns was in possession of a sexually explicit image of Staff Member 1 in the form of a 'GIF' and that a discussion took place whereby Dr Burns showed it to Staff Member 1.

It was clear that this upset Staff Member 1 and caused [REDACTED] some distress. It had been produced from an earlier image sent by Staff Member 1 to Dr Burns whilst their relationship was ongoing.

When initially asked about this image in [REDACTED] investigatory interview, Staff Member 1's response is recorded as being that Dr Burns threatened to "*share it around*". [REDACTED] is subsequently recorded as adding:

"[Staff Member 1] also described that he said he would come into [REDACTED] Year 11 class and show it to the students."

Staff Member 1 repeated this in [REDACTED] oral evidence to the panel.

Dr Burns denied this allegation, stating that he would not ever share explicit images with students and did not threaten to do so.

The panel was also referred to an exchange of messages that occurred on or around the day of the discussion.

Whilst in these messages Staff Member 1 clearly refers to [REDACTED] distress about Dr Burns possessing the image, at no stage does [REDACTED] allude to him threatening to show it to pupils.

Staff Member 1 was clear in [REDACTED] evidence and the panel had no doubt that [REDACTED] believed there was a threat of this image being seen by pupils in general terms.

However, the panel had in mind that this was an extremely exceptional threat to make given Dr Burns' role, in that it was not something he would be able to do without serious professional consequences.

On balance, the panel was not persuaded that Dr Burns made such a comment in terms of an actual, viable threat, even if Staff Member 1 may have interpreted his actions in that manner or, as was more likely, thought there was a realistic prospect of pupils seeing the image.

In arriving at that conclusion, the panel considered that if such a direct threat was made, it was likely that Staff Member 1 would have referred to it in [REDACTED] messages at that time. As a matter of fact, [REDACTED] did not.

Further, the panel had in mind that, other than in relation to this occasion, pupils did not otherwise feature in the context of their relationship and the other allegations. Despite

this issue having been identified in the course of the School's investigation, there was no indication it was treated as a safeguarding concern by the School or by Dr Burns' current employer.

Mindful of the fact that the burden is on the TRA to prove the facts, the panel was not persuaded that burden had been discharged to the requisite standard on the basis of the evidence before it.

In the panel's view, it was equally as plausible that Staff Member 1 thought such an occurrence was possible and was panicked about the prospect that, if the image was circulated, it could end up in the hands of pupils, without Dr Burns ever actually making such a threat.

The panel therefore found allegation 10(b) not proved.

c. with words to the effect “I’ll destroy you” on

i. 25 December 2018

ii. 3 January 2019

iii. 5 January 2019

Dr Burns admitted the facts of allegation 10(c) whereby he accepted using words to the effect of “*I’ll destroy you*”, directed at Staff Member 1, on each of the occasions particularised.

Staff Member 1's evidence on this issue was accordingly unchallenged.

Dr Burns' position was that these comments were meant in the context of destroying [REDACTED] personal life, not [REDACTED] career, though he did not condone the use of this word in any respect.

In light of his admission, the panel found the facts of allegation 10(c) proved.

d. with disclosure of images to Staff Member 1's [REDACTED], stating “I could make another gif of your come faces. You could show [REDACTED] and compare” on an unknown date

Dr Burns admitted sending a message in which he stated:

“I could make another gif of your come faces. You could show [REDACTED] and compare.”

The [REDACTED] in question was said to be Staff Member 1's partner at the time the message was sent.

A copy of the message was included in evidence.

On the basis of this and Dr Burns' admission, the panel found allegation 10(d) proved.

11. You behaved violently, namely

- a. in March 2018, you grabbed Staff Member 1's hair tightly at the nape of [REDACTED] neck**

There was no dispute that an incident occurred at some point in March 2018, when Dr Burns and Staff Member 1 were together in his car. It was suggested that they were intending to have dinner together prior to a governor's meeting.

However, an argument ensued. The reason for that argument was a source of disagreement, which the panel did not consider it necessary to resolve.

Whatever caused it, there was no dispute that it led to Dr Burns removing a bracelet that he had been given by Staff Member 1 and handing it to [REDACTED] . It was also accepted that Staff Member 1 proceeded to throw the bracelet, which was partly metallic, at Dr Burns and it struck him in the face.

Dr Burns and Staff Member 1 provided very different accounts about what happened next, which was at the heart of this allegation.

Staff Member 1's initial account, during the course of the School's investigation, was as follows:

"[Dr Burns] grabbed [REDACTED] hair tightly at the nape of [REDACTED] neck resulting in [REDACTED] being unable to move and in pain."

[REDACTED] restated that account in consistent terms in [REDACTED] evidence to the panel.

Dr Burns denied this allegation. Rather than grabbing [REDACTED] in the manner alleged, in response to being struck by the bracelet he asserted that he instinctively pushed Staff Member 1 away but did not grab [REDACTED] neck or hair.

There were no witnesses to this incident and the panel was therefore presented with a straightforward conflict of evidence.

Having carefully considered that evidence, the panel preferred Staff Member 1's account. It therefore found that, on this occasion, Dr Burns did grab [REDACTED] in the manner alleged and, by doing so, he behaved violently towards [REDACTED]. It arrived at that conclusion for the following, principal reasons.

First, the panel considered that Staff Member 1 was largely a measured witness who did not seek to embellish. [REDACTED] was prepared to accept some failings on [REDACTED] own part and in relation to other, alleged violent acts, [REDACTED] fairly conceded that Dr Burns was not violent towards [REDACTED] . [REDACTED] stated this was the first time [REDACTED] had been scared of him and [REDACTED] did not suggest there were any other occasions when he had been physically violent towards [REDACTED] .

Secondly, Staff Member 1 has been consistent in [REDACTED] various accounts. Whilst the panel had in mind the unreliability of memory in general terms, Staff Member 1's recall of the detail of this incident was impressive and [REDACTED] was able to vividly describe how the incident made [REDACTED] feel at the time. The panel considered it was less likely [REDACTED] would have reacted in the manner [REDACTED] described if Dr Burns' version of events was correct.

Thirdly, Dr Burns admitted the facts of allegation 10(a), thereby corroborating Staff Member 1's version of events in relation this incident, whilst acknowledging that he did not recall the precise words used.

Fourthly, in the context of an act involving some violence from Staff Member 1 in relation to the throwing of this bracelet, even if this was accidental in terms of the contact the item made, the panel considered it was plausible that Dr Burns would have responded in kind. To the contrary, Dr Burns' explanation that he did no more than "*instinctively pushed* [REDACTED] away" was, in the panel's view, less plausible. In particular, there was no suggestion that Staff Member 1 was moving towards him in any way, at the precise time, or that he needed to defend himself after having been struck. Accordingly, his purported reaction, on his own account, was less consistent with the nature of this incident.

For these reasons, the panel therefore found allegation 11(a) proved.

b. on 13 September 2018, you kicked or hit items in your office in the presence of Staff Member 1

Staff Member 1 gave an account to the School that, following routine communications [REDACTED] had with Staff Member 2 on 13 September 2018, [REDACTED] went with Dr Burns to his office when he reacted by kicking a bin and hitting things within the room so heavily that a photograph fell over.

Staff Member 1 provided further clarity in [REDACTED] oral evidence to the panel, albeit given the passage of time [REDACTED] very fairly conceded that [REDACTED] was no longer completely clear as to whether the item Dr Burns kicked was a bin. [REDACTED] added that whilst [REDACTED] did not think Dr Burns was going to hurt [REDACTED] at any point, it was difficult being in the presence of someone being so physical and violent in that environment.

Whilst Dr Burns did not deny that an incident happened on this date, he disputed the accuracy of Staff Member 1's account.

Dr Burns accepted this allegation only insofar as he could recall banging his open palm on a table, which he said was to push a chair away from his desk, which caused a photograph to fall over. He also accepted that in doing so he behaved emotionally and in an unacceptable way. Dr Burns could not recall whether he kicked the bin under his desk.

Dr Burns therefore denied allegation 11(b) in formal terms whilst accepting that his behaviour was inappropriate.

However, when his account was challenged in oral evidence, whereby it was suggested that he could not clearly recall what happened, that was broadly conceded by Dr Burns.

The panel also considered that the nature of the acts, even as admitted, were indicative of a loss of control on his part. Hitting items, even on his own account, was not, in the panel's view, the behaviour of someone in control of their emotions and there was a pattern of Dr Burns reacting immediately to certain events, particularly with reference to Staff Member 2.

For these reasons, the panel was persuaded that this incident was more likely to have occurred in the manner set out by Staff Member 1 than by Dr Burns. It was consistent with how he reacted on other occasions with reference to Staff Member 1's interactions with Staff Member 2, whereby even in messages comments were made that were aggressive in nature and were the written equivalent of lashing out.

It therefore concluded that, on 13 September 2018, Dr Burns did kick or hit items in his office in the presence of Staff Member 1. Even though these acts were not directed at Staff Member 1, which [REDACTED] very fairly stated, the panel nevertheless concluded that this was violent behaviour by its very nature.

The panel therefore found allegation 11(b) proved.

c. on or around 8 January 2019, you punched or kicked items in [REDACTED] room in the presence of Staff Member 1

Allegation 11(c) concerned a separate occasion when Dr Burns was alleged to have behaved in a similar manner to the incident on 13 September 2018, albeit on this occasion in Staff Member 1's classroom.

Once again, the trigger was a routine interaction between Staff Member 1 and Staff Member 2.

Staff Member 1 stated that on the morning of 8 January 2019, Staff Member 2 had telephoned [REDACTED] with a query about data. Prior to this, [REDACTED] asserted that Dr Burns had told [REDACTED] to cancel a meeting with Staff Member 2.

Staff Member 1 stated that Dr Burns subsequently "*stormed*" into [REDACTED] room because he was inconsolable about the fact that Staff Member 2 had telephoned [REDACTED]. He then began "*punching things, he kicked the door to [REDACTED] store cupboard, he kicked furniture apart and, as a consequence he broke his hand by punching a student desk*".

Once again, Staff Member 1 fairly conceded that these violent acts were not directed towards [REDACTED] but rather the physical environment of [REDACTED] classroom.

Dr Burns admitted that this incident took place and that he "*banged his hand*" against the side of a table, which he accepted was unacceptable. He denied that he punched or kicked furniture. Dr Burns also confirmed that he suffered a fracture as a result of the contact he made with the table, which he said was to the side of his hand, following contact with an open hand and not a closed fist. He maintained the incident was not as explosive as Staff Member 1 had described.

Having carefully considered the respective accounts, the panel again preferred Staff Member 1's version of events. It considered that Dr Burns was seeking to downplay the extent of his reaction to another occurrence involving Staff Member 2.

The panel considered that even Dr Burns' account was indicative of a highly volatile reaction in which he was out of control. The fact that he struck a desk with such force that he suffered a fracture was highly persuasive and did not support his version of events.

There was clearly a dispute as to whether Dr Burns punched or hit a desk with a closed fist or open hand at the point at which he suffered the fracture. Dr Burns suggested that medical information would show the latter was true. However, he had not put that in evidence.

The panel considered this was largely academic. The salient point was that he struck a desk with such force and violence that he sustained a fracture. Staff Member 1 clearly perceived he had done so as a consequence of a punch but in any event [REDACTED] account was that Dr Burns was kicking and punching items throughout the duration of this incident. Given the extent of his emotional reaction to matters involving Staff Member 2 and the injury Dr Burns suffered, the panel considered that Staff Member 1's version of events was the more plausible.

The panel therefore concluded that, on 8 January 2019, Dr Burns did kick or hit items in Staff Member 1's room, in [REDACTED] presence, and in doing so he behaved violently.

The panel therefore found allegation 11(c) proved.

12. Your conduct in the foregoing paragraphs, as may be found proven, amounted to inappropriate conduct towards one or more colleagues.

Having found all of the allegations proved except for allegation 10(b), the panel went on to consider whether Dr Burns' actions amounted to inappropriate conduct towards one or more colleagues.

This was admitted by Dr Burns in relation to those allegations that there were the subject of admissions.

The panel agreed that his actions in relation to those allegations did amount to inappropriate conduct and arrived at the same conclusion in relation to those allegations that Dr Burns did not admit.

This was, plainly, inappropriate behaviour, particularly having regard to the wider context in which these acts respectively occurred.

His actions engaged not just Staff Member 1 but also Staff Member 2, insofar as Dr Burns sought to influence and control the extent of Staff Member 2's proper line management of Staff Member 1. His actions also concerned Staff Member 3 in relation to allegation 9.

In each respect, the panel concluded that Dr Burns failed to demonstrate the consistently high standards expected of him as a teacher and behaved inappropriately. This is addressed further in the panel's decision, below, as to whether Dr Burns' behaviour amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

For present purposes, the panel found allegation 12 proved in relation to each proven element of allegations 1 to 11.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found all of the allegations proved with the exception of allegation 10(b), the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In relation to those allegations that were admitted, Dr Burns also admitted that they amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. Whilst the panel took these admissions into account, it made it its own, independent determination.

In doing so, the panel had regard to the document 'Teacher Misconduct: The Prohibition of Teachers', which is referred to as “the Advice”.

The panel was satisfied that Dr Burns' conduct, in relation to the facts found proved, involved breaches of the Teachers' Standards.

The panel considered that, by reference to Part 2, Dr Burns was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel also considered whether Dr Burns' conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel did have in mind that its findings included incidents involving elements of violence. Its findings in relation to allegation 9 also raised the issue of intolerance on the grounds of sexual orientation.

However, the panel was informed that there had been some police involvement in this case, which did not proceed beyond initial enquiries. It was not alleged that Dr Burns' actions, in either respect, amounted to a criminal offence or could be classified as criminal in nature.

As such, with reference to the Advice, and notwithstanding the concerns these proven actions gave rise to, the panel concluded that none of these offences listed in the Advice were relevant.

In addition to the fact that Dr Burns' actions breached the Teachers' Standards, the panel took account of his duties and responsibilities as a teacher in a senior, leadership position.

He was a role model to staff and pupils at the School. Dr Burns also had a duty to forge and maintain positive professional relationships and to ensure that professional boundaries were maintained, whereby private matters should not have been allowed to impact upon the School, its staff or pupils.

In the light of its findings, the panel was satisfied that Dr Burns had breached his duties in that regard. As a teacher, he is expected to demonstrate consistently high standards of personal and professional conduct. In each of the respects found proved, he did not do so and this behaviour occurred over a long period and was multi-faceted.

Whilst the allegations concerned Dr Burns' behaviour within the context of a personal relationship, his actions could nevertheless be categorised, for the most part, as having occurred within the education setting.

In relation to allegations 1, 2(b), 3, 4 and 5, his actions involved another staff member, Staff Member 2, in terms of [REDACTED] ability to undertake planned line management of Staff Member 1, in addition to impacting on Staff Member 1 [REDACTED] .

Allegation 3 also raised confidentiality and data protection concerns and Dr Burns' actions, in accessing Staff Member 1's email account in this manner, were contrary to the School's policies and highly inappropriate, which he obviously should have recognised.

There was also an impact in relation to Staff Member 3, who was made aware of at least one of the comments made about [REDACTED] with reference to allegation 9.

Even if Staff Member 3 had been completely unaware of any of these comments, Dr Burns' conduct in relation to allegations 9(a) to (f) was appalling and had obvious discriminatory overtones.

In relation to Staff Member 1, [REDACTED] was plainly impacted by each of these proven allegations, particularly considered in totality.

Whilst certain proven allegations considered in isolation may not necessarily be described as serious, the panel had in mind the wider context in which each distinct element occurred.

In certain respects, particularly in relation to the comments subject to allegations 7, 8 and 10(a), (c) and (d), which were abusive or threatening in nature, Dr Burns' behaviour was egregious.

Whilst the panel had in mind that this was a complex relationship in which both parties did things they no doubt regret, Staff Member 1 was also a teacher, in the same school, and Dr Burns' actions could have impacted on the performance of [REDACTED] duties, thereby potentially impacting, albeit indirectly, on learners. Dr Burns' conduct, in relation to which there was a clear, central thread of controlling or coercive behaviour, did not stop at the start of the school day but continued, including specific incidents during the course of it, and did so over a protracted period. Other staff members clearly had some concerns, which led to the School's initial investigation.

The panel considered allegations 11(b) and 11(c) in this vein, which both occurred at School. Even if the incidents were not witnessed by other staff or pupils, there was a very real possibility that they could have been.

Even in relation to those allegations that occurred entirely outside of the School, for example allegation 11(a), the panel considered Dr Burns' actions had the potential to lead pupils being exposed to, or influenced by, the behaviour in a harmful way. In relation to that particular allegation, plainly pupils, parents and other members of the public do not expect teachers to behave in such a way and the same was true in relation to other allegations.

In relation to allegation 6, the panel also considered this was serious when considered in the context of a wider pattern of controlling behaviour.

For all these reasons, the panel was satisfied that the conduct of Dr Burns, in relation to each of these allegations and whether considered individually or together, amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Accordingly, the panel was satisfied that Dr Burns was guilty of unacceptable professional conduct.

The panel similarly concluded that his conduct may bring the profession into disrepute.

In addition to having the above points firmly in mind, the panel took into account the way the teaching profession is viewed by others. It considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The panel's findings of misconduct are clearly serious, particularly considered in totality. The panel was therefore satisfied that the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore found that Dr Burns' actions constituted conduct that may bring the profession into disrepute.

In summary, having found the facts of all of the allegations except for allegation 10(b) proved, the panel further found that Dr Burns' conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely, the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct.

The panel's findings involving serious, sustained and multi-faceted misconduct largely within the education setting from someone who was a role model and in a position of responsibility. In the respects outlined, Dr Burns' actions had the potential to impact upon staff at the School and, albeit indirectly, pupils. Whilst the panel had in mind that no pupils were directly impacted by Dr Burns' conduct, the panel concluded there was a strong public interest consideration in respect of the protection of pupils and other members of the public.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Dr Burns were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was also of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present. The conduct found against Dr Burns was outside that which could reasonably be tolerated.

The panel also considered there was a strong public interest consideration in retaining Dr Burns in the profession. No doubt had been cast upon his abilities as an educator and indeed the contrary was true. The panel was presented with persuasive and powerful evidence that Dr Burns was highly regarded as an educator, both in terms of his classroom performance and as a school leader. It was particularly noteworthy that he had worked successfully in education since leaving the School and continued to do so. This is an issue to which the panel returns, below.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Dr Burns.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Dr Burns.

The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position or trust;
- deliberate behaviour that undermined pupils, the profession, the school or colleagues.

The panel also noted that whilst no allegation of dishonesty or a lack of integrity was pleaded, the Advice states that such behaviour may involve the coercion of another person to act in a way contrary to their own interests, which was a factor in this case.

Even though some of the behaviour found proved indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

In the light of the panel's findings, it considered the following mitigating factors were present in this case:

- Dr Burns had a previous good history. He had an otherwise unblemished record in that there was no evidence that Dr Burns had been subject to any previous regulatory or disciplinary proceedings.
- Dr Burns provided a number of character references and testimonials, which depicted him in positive terms. For example, [REDACTED] gave oral evidence in support of Dr Burns and, in doing so, set out that Dr Burns was someone [REDACTED] considered to be an exceptional teacher and leader. [REDACTED] was previously a senior leader at his current school and worked closely with Dr Burns. It was clear that Dr Burns had been swiftly promoted at this school.
- In terms of his teaching practice, [REDACTED] explained [REDACTED] would often stop to observe Dr Burns' lessons because of the quality of his teaching. [REDACTED] described him as very supportive to pupils and said he was able to engage with them very positively. [REDACTED] described him as a member of

staff who was able to get the very best from pupils and would go out of the way to do so. [REDACTED] confirmed that his dealings with colleagues were also positive and [REDACTED] had no issues in that regard.

- The panel also carefully considered the written testimonials provided by Dr Burns and the evidence from pupils alluding to Dr Burns' teaching practice in positive terms.
- As an example, [REDACTED], his current headteacher, described him as "*an outstanding practitioner*". [REDACTED] confirmed there had been no complaints or concerns about Dr Burns and [REDACTED] considered him to be an asset to [REDACTED] academy.
- It followed that Dr Burns had demonstrated exceptionally high standards in both personal and professional conduct since these events and has continued to contribute significantly to the education sector. The view of multiple, credible, senior teachers was clearly and consistently that he was an extremely good teacher.
- The allegations were derived from what became, at some point, a complex personal relationship, that clearly became extremely volatile. There was a degree of mutuality in terms of their respective behaviour even if the panel was satisfied that the most concerning elements originated from Dr Burns. For whatever reason, the nature of this relationship brought out the worst in Dr Burns, in particular in terms of jealousy and controlling behaviour. The former, in particular, was a central thread and a clear driver of his conduct, resulting in, at best, extremely poor judgment and, at worst, appalling and abusive behaviour.
- Dr Burns had taken steps to address his behaviour in that he had undertaken counselling and therapy, which he addressed in some detail in his evidence to the panel.
- There had been no repetition of the same or similar conduct in the period since Dr Burns left the School over 3 years ago. Indeed, there was clear evidence, as noted above, that Dr Burns had since worked very successfully in education.
- These proceedings have clearly been ongoing for some time. Through no fault on the part of Dr Burns, there has been considerable delay in this case reaching a final hearing. That would undoubtedly have had some impact on him.
- There was no direct impact on learners' education or safeguarding.
- Dr Burns had fully engaged in these proceedings and made extensive admissions. He gave oral evidence to the panel and subjected himself to questions. He had

been open and transparent with his employers since these matters first came to light.

- Dr Burns showed regret and remorse, in particular with reference to the impact of these events upon Staff Member 1. He was also very emotional when recognising how he had let down his former headteacher. However, the panel noted that despite Dr Burns' behaviour and the circumstances of his departure from the School, his previous headteacher had nevertheless provided a positive reference in which he described Dr Burns as inspirational. It also noted that Dr Burns' leadership and contribution had played in part in the School being described as outstanding by Ofsted in 2015.
- Dr Burns has shown some insight into the implications and effect of his failings, although this was far from complete. For example, the panel considered he had sought to downplay aspects of his conduct and he did not show a good understanding of the impact of his actions upon the School. His insight was therefore emerging. However, there was evidence that Dr Burns clearly understood not only that what he did was appalling, but that he had reached a point where he now understood the factors and triggers that caused him to do what he did.

Weighed against these matters, the panel considered there were some aggravating factors present, including:

- Dr Burns' actions amounted to a breach of the Teachers' Standards. This was serious behaviour that was, in many respects, appalling. Some of the comments in particular, directed at Staff Member 1 and Staff Member 3, were concerning.
- The panel found that Dr Burns' actions involved coercion or control of Staff Member 1 and clearly impacted upon [REDACTED] and could have impacted on the performance of [REDACTED] duties.
- Dr Burns' actions were deliberate. Whilst he may have acted in the context of the complexities of this relationship and his insecurities, he remained responsible for his actions.
- Dr Burns was an experienced teacher who ought to have known what was required of him and to have conducted himself accordingly.
- Dr Burns' conduct spanned a prolonged period. This was not an isolated moment of madness and was multi-faceted.
- For the most part, his conduct occurred within the education setting.

- His actions involved other staff members, particularly Staff Member 2 and Staff Member 3.
- In relation to allegation 3, Dr Burns' conduct raised confidentiality and data protection concerns and was contrary to the School's policies.
- Dr Burns' conduct in relation to allegation 9 had discriminatory overtones.
- His actions had the potential to impact, albeit indirectly, on learners. In relation to allegations 11(b) and 11(c), Dr Burns conduct occurred at School. Even if the incidents were not witnessed by other staff or pupils, there was a very real possibility that they could have been.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response.

The nature of the proven conduct in this case was serious for the reasons outlined.

However, having considered the mitigating factors present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case for the following reasons in particular.

First, the panel accepted that Dr Burns was, but for these matters, an exceptional practitioner who was likely to make a positive impact in education in the future.

Secondly, whilst this misconduct continued for a long period, this was a time in his life in which Dr Burns behaved in the way he did because of the personal relationship he was in. He allowed his professional life to impact, considerably, on his personal life and behaved appallingly in the respects outlined. Nonetheless, there were specific causes or triggers and Dr Burns had taken steps to understand and address this.

Thirdly, the panel concluded that the risk of repetition was low. There had been no repetition of the same or similar conduct in the period since he left the School, albeit the panel had in mind that Dr Burns had been operating under the spectre of these proceedings. Having gone through this process, the panel considered it was unlikely that Dr Burns would put himself in the same situation again.

Indeed, the panel considered that at the heart of this case was a highly unusual state of affairs. Not only was this a set of circumstances that was unlikely to ever arise again, the panel was satisfied that Dr Burns had learnt important lessons.

That conclusion was further supported by the steps taken by Dr Burns in the period since these events to address his behaviour, in terms of counselling, therapy and reflection. In short, the panel was satisfied that Dr Burns had taken significant steps towards remediating the behaviours that contributed to his conduct

Fourthly, Dr Burns had showed some insight into his actions, even if this was emerging rather than complete.

In light of all these matters and the other mitigating factors identified above, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

Having very carefully taken account of the public interest considerations his proven conduct gave rise to, the panel considered that the publication of the adverse findings it has made would be sufficient to send an appropriate message as to the standards of behaviour that were not acceptable.

The panel considered this is a proportionate outcome, which struck a fair balance between the public interest and Dr Burns' interests.

In the panel's judgment, the public interest in the safeguarding and wellbeing of pupils and other members of the public was not a continuing concern given the limited risk of repetition and also having in mind that Dr Burns' conduct did not directly impact on learners. The panel was also satisfied that its decision maintains public confidence and upholds professional standards.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven, including 10 (b). I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Dr David Burns should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Dr Burns is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel finds that the conduct of Dr Burns fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they involved sustained and multi-faceted misconduct largely within the education setting from someone who was a role model and in a position of responsibility.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Dr Burns, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect pupils. The panel has observed, “Dr Burns’ actions had the potential to impact upon staff at the School and, albeit indirectly, pupils. Whilst the panel had in mind that no pupils were directly impacted by Dr Burns’ conduct, the panel concluded there was a strong public interest consideration in respect of the protection of pupils and other members of the public.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Dr Burns has shown some insight into the implications and effect of his failings, although this was far from complete. For example, the panel considered he had sought to downplay aspects of his conduct and he did not show a good understanding of the impact of his actions upon the School. His insight was therefore emerging. However, there was evidence that Dr Burns clearly understood not only that what he did was appalling, but that he had reached a point where he now understood the factors and triggers that caused him to do what he did.” In my judgement,

the lack of full insight means that there is some risk of the repetition of this behaviour. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Dr Burns were not treated with the utmost seriousness when regulating the conduct of the profession.” And the panel also said “there was a strong public interest consideration in retaining Dr Burns in the profession. No doubt had been cast upon his abilities as an educator and indeed the contrary was true.”

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Dr Burns himself and the panel comment “The panel was presented with persuasive and powerful evidence that Dr Burns was highly regarded as an educator, both in terms of his classroom performance and as a school leader. It was particularly noteworthy that he had worked successfully in education since leaving the School and continued to do so.”

A prohibition order would prevent Dr Burns from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning insight and remorse, “the panel considered that at the heart of this case was a highly unusual state of affairs. Not only was this a set of circumstances that was unlikely to ever arise again, the panel was satisfied that Dr Burns had learnt important lessons.

That conclusion was further supported by the steps taken by Dr Burns in the period since these events to address his behaviour, in terms of counselling, therapy and reflection. In short, the panel was satisfied that Dr Burns had taken significant steps towards remediating the behaviours that contributed to his conduct”

I have also placed considerable weight on the finding of the panel “Dr Burns was, but for these matters, an exceptional practitioner who was likely to make a positive impact in education in the future.”

I have given weight in my consideration of sanction therefore, to the contribution that Dr Burns has made and is making to the profession.

The panel was of the view that there was a limited risk of repetition of the behaviour found proven and that Dr Burns' conduct did not directly impact on learners. The panel was also satisfied that its decision maintains public confidence and upholds professional standards.

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 29 June 2022

This decision is taken by the decision maker named above on behalf of the Secretary of State.